



Sen. Dave Syverson

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09500SB2138sam001

LRB095 18827 WGH 47612 a

1 AMENDMENT TO SENATE BILL 2138

2 AMENDMENT NO. _____. Amend Senate Bill 2138 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Code of Civil Procedure is amended by
5 changing Section 12-183 as follows:

6 (735 ILCS 5/12-183) (from Ch. 110, par. 12-183)

7 Sec. 12-183. Release of judgment.

8 (a) Every judgment creditor, his or her assignee of record
9 or other legal representative having received full
10 satisfaction or payment of all such sums of money as are really
11 due to him or her from the judgment debtor on any judgment
12 rendered in a court shall, at the request of the judgment
13 debtor or his or her legal representative, execute and deliver
14 to the judgment debtor or his or her legal representative an
15 instrument in writing releasing such judgment. A release or
16 satisfaction of judgment shall include the following clear and

1 conspicuous language:

2 This release should be filed in the Office of the Clerk of
3 the Circuit Court in order to clear court records. The
4 Clerk of the Circuit Court shall not assess any fee or
5 charge for the filing of a release or satisfaction of
6 judgment.

7 If the judgment has been recorded in the Office of the
8 County Recorder of Deeds, a copy of this release should
9 also be recorded. The County Recorder of Deeds may assess a
10 fee for recording a release or satisfaction of judgment.

11 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL BE
12 FILED WITH THE RECORDER IN WHOSE OFFICE THE LIEN WAS FILED.
13 It is the responsibility of the defendant to record the
14 release.

15 (b) If the judgment creditor, his or her assigns of record
16 or other legal representative to whom tender has been made of
17 all sums of money due him or her from the judgment debtor
18 including interest, on any judgment entered by a court,
19 wilfully fails or refuses, at the request of the judgment
20 debtor or his or her legal representative to execute and
21 deliver to the judgment debtor or his or her legal
22 representative an instrument in writing releasing such

1 judgment, the judgment debtor may petition the court in which
2 such judgment is of record, making tender therewith to the
3 court of all sums due in principal and interest on such
4 judgment, for the use of the judgment creditor, his or her
5 executors, administrators or assigns, whereupon the court
6 shall enter an order satisfying the judgment and releasing all
7 liens based on such judgment.

8 (c) For the recording of assignment of any judgment the
9 clerk of the court in which such judgment is of record is
10 allowed a fee of \$2.

11 (d) A satisfaction of a judgment may be delivered to the
12 judgment debtor, his or her attorney or to the clerk of the
13 court in which such judgment is of record.

14 (e) The clerk shall not be allowed any fee for recording
15 the satisfaction of judgment. The clerk of the court shall make
16 appropriate notation on the judgment docket of the book and
17 page where any release or assignment of any judgment is
18 recorded.

19 (f) No judgment shall be released of record except by an
20 instrument in writing recorded in the court in which such
21 judgment is of record. However, nothing contained in this
22 Section affects in any manner the validity of any release of
23 judgment made, prior to January 1, 1952, in judgment and
24 execution dockets by the judgment creditor, his or her
25 attorney, assignee or other legal representative.

26 (g) The writ of audita querela is abolished and all relief

1 heretofore obtainable and grounds for such relief heretofore
2 available, whether by the writ of audita querela or otherwise,
3 shall be available in every case by petition hereunder,
4 regardless of the nature of the order or judgment from which
5 relief is sought or of the proceeding in which it was entered.
6 There shall be no distinction between actions and other
7 proceedings, statutory or otherwise, as to availability of
8 relief, grounds for relief or relief obtainable. The petition
9 shall be filed in the same proceeding in which the order or
10 judgment was entered and shall be supported by affidavit or
11 other appropriate showing as to matters not of record. All
12 parties to the petition shall be notified as provided by rule.

13 (h) (Blank) ~~Upon the filing of a release or satisfaction in~~
14 ~~full satisfaction of judgment, signed by the party in whose~~
15 ~~favor the judgment was entered or his or her attorney, the~~
16 ~~court shall vacate the judgment, and dismiss the action.~~

17 (i) Any judgment arising out of an order for support shall
18 not be a judgment to the extent of payments made as evidenced
19 by the records of the Clerk of the Circuit Court or State
20 agency receiving payments pursuant to the order. In the event
21 payments made pursuant to that order are not paid to the Clerk
22 of the Circuit Court or a State agency, then any judgment
23 arising out of each order for support may be released in the
24 following manner:

25 (1) A Notice of Filing and an affidavit stating that
26 all installments of child support required to be paid

1 pursuant to the order under which the judgment or judgments
2 were entered have been paid shall be filed with the office
3 of the court or agency entering said order for support,
4 together with proof of service of such notice and affidavit
5 upon the recipient of such payments.

6 (2) Service of such affidavit shall be by any means
7 authorized under Sections 2-203 and 2-208 of the Code of
8 Civil Procedure or under Supreme Court Rules 11 or 105(b).

9 (3) The Notice of Filing shall set forth the name and
10 address of the judgment debtor and the judgment creditor,
11 the court file number of the order giving rise to the
12 judgment and, in capital letters, the following statement:

13 YOU ARE HEREBY NOTIFIED THAT ON (insert date) THE
14 ATTACHED AFFIDAVIT WAS FILED IN THE OFFICE OF THE CLERK OF
15 THE CIRCUIT COURT OF COUNTY, ILLINOIS, WHOSE ADDRESS
16 IS, ILLINOIS. IF, WITHIN 28 DAYS OF THE DATE OF
17 THIS NOTICE, YOU FAIL TO FILE AN AFFIDAVIT OBJECTING TO THE
18 SATISFACTION OF THE STATED JUDGMENT OR JUDGMENTS IN THE
19 ABOVE OFFICE, THE SAID JUDGMENTS WILL BE DEEMED TO BE
20 SATISFIED AND NOT ENFORCEABLE. THE SATISFACTION WILL NOT
21 PREVENT YOU FROM ENFORCING THE ORDER FOR SUPPORT THROUGH
22 THE COURT.

23 (4) If no affidavit objecting to the satisfaction of
24 the judgment or judgments is filed within 28 days of the
25 Notice described in paragraph (3) of this subsection (i),
26 such judgment or judgments shall be deemed to be satisfied

1 and not enforceable.

2 (Source: P.A. 91-357, eff. 7-29-99.)

3 Section 99. Effective date. This Act takes effect January
4 1, 2009.".